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QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT

TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

Written statement submitted by the International Federation of Human Rights, a non-governmental organization in consultative status (category II)

The Secretary-General has received the following communication, which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[21 January 1991]

1. Guatemala signed the Inter-American Convention to Prevent and Punish Torture, with the reservation that "under internal law, once remedies have been exhausted, a ruling for the acquittal of a person charged with the offence of torture shall remain final and cannot be submitted to any international authority", which affords protection to tortures.

2. Since April 1990, it has also been a signatory of the United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, to which it initially entered reservations similar to that quoted above, but then withdrew them on 6 June 1990 under strong national and international pressure.

3. Although in internal law, and specifically in the Political Constitution of the Republic of Guatemala, torture is not expressly prohibited, article 3 of the Constitution states "The right to life. The State guarantees and protects human life from the time of conception, as well as the integrity and security of the person". In addition, articles 6 to 17 of the Constitution describe clearly the procedure to be followed in arresting persons, as well as the rights of detainees.

4. Moreover, article 19 refers to the penitentiary system which "must aim at the social rehabilitation and reformation of prisoners" following minimum rules, one of which is "(a) Prisoners must be treated as human beings; they must not be discriminated against on any ground nor may they be subjected to cruel treatment, physical, moral or psychological torture, coercion or harassment, labour incompatible with their physical condition, or treatment impairing their dignity ...". Consequently, on the basis of international norms and internal legislation, torture must not be practised in Guatemala and persons who are serving terms of imprisonment must be treated with dignity.

5. The prison situation in Guatemala is similar to that in other Latin American countries: overcrowding, subhuman living conditions, corruption, abuses by the prison authorities and cruel and inhuman treatment. Accordingly, we shall refer here only to politically motivated torture, since torture has been practised in Guatemala for decades.

6. In his report on the situation in Guatemala (document E/CN.4/1990/17), submitted to the Commission following a visit to Guatemala in 1989, the Special Rapporteur on torture, Mr. Peter Kooijmans, stated that: "Basic human rights violations, such as enforced or involuntary disappearances, torture and arbitrary executions, seem to be inextricably linked in Guatemala". Throughout 1990, systematic human rights violations, beginning with the enforced disappearance of an individual, continued. The disappearance is followed by the use of physical and psychological torture in some secret place of detention and in most cases culminates in the discovery of the body on a public thoroughfare.

7. Those responsible for such violations are actually members of the clandestine repression apparatus co-ordinated by the army's intelligence unit (S-2, formerly G-2), whose identity is never known and who are thus guaranteed impunity. As a result, torture in Guatemala is shrouded in secrecy: the identities of those arresting the victims are unknown, as are the places where they are tortured and the plates of the vehicles from which the bodies are thrown.

8. Between 1 January and 12 December 1990, the Commission on Human Rights of Guatemala (CDHG), which is a member of our Federation, recorded the discovery of the bodies, bearing marks of torture, of 126 persons whose disappearance had not been reported and 56 cases of persons reported as having disappeared, whose bodies also were found with marks of torture. This makes a total of 182 cases of persons who were executed extrajudicially after being tortured.

9. The marks of torture on the bodies included the following: eight had burns, probably from cigarettes; two had been burned with a torch (used for welding metals); 12 had had extremities or genitals cut off and two had had their eyes gouged out. In addition to marks of torture, the bodies almost invariably bore bullet wounds and/or signs of the coup de grâce and some were found in sacks or nylon bags.

10. Finding such bodies on the public thoroughfare or witnessing a lifeless body being thrown from a moving vehicle provokes silent terror among the Guatemalan population. Indeed, the aim of such extrajudicial executions is not merely to physically eliminate the person in question, but to terrorize the population, who feel completely helpless and insecure in the face of the absolute impunity with which those responsible operate.

11. It is very difficult to obtain first-hand accounts of torture in Guatemala, since the victims are almost invariably executed and the few who survive are afraid to speak. Cases in which a missing detainee manages to escape his captors alive are exceptional. It is even more exceptional for such persons to give evidence since, in the circumstances described, the psychological pressure, (including threats against relatives) is such that any person surviving almost always prefers to remain silent, even in exile. In cases where the victims do give evidence, the security forces resort to incredible explanations. For example, Government spokesmen described the case of Sister Diana Mack Ortiz, a member of the Ursuline order and a United States citizen, as one of "self-abduction", despite the fact that there were more than 100 cigarette burns on her body.

12. This harsh reality is compounded by the inefficiency and ineffectiveness of the judicial system. The administration of justice in Guatemala is hamstrung not only by the shortcomings of investigation procedures, but above all by death threats and intimidation to which judges are subjected. Threats are also made against the relatives of victims who have tried to obtain justice.

13. In some cases, such threats have been carried out. On 29 November 1990, Urbano Efraín Alvarado Mejia, the brother of Sergio Danilo Alvarado Mejia, a university student who was abducted, tortured and executed in October 1987, was extrajudicially executed. Urbano Efraín Alvarado had for three years been trying to obtain justice by having the six police officers responsible for his brother's death tried and punished. While endeavouring to exercise that right, he too had fallen victim to the clandestine repression apparatus.

14. Consequently, in addition to the link between enforced or involuntary disappearances, extrajudicial execution and torture noted by Mr. Kooijmans in his report, there is also the failure to administer justice. All this means that, in Guatemala, there is a climate of systematic violation of human rights, which occur, in the words of the Special Rapporteur, "in a kind of clair-obscur where lawlessness and violence are rampant, and it seems virtually impossible to penetrate this clair-obscur unless there is a strong political will on the part of all political forces to do so".

15. The International Federation of Human Rights therefore requests the Commission on Human Rights to appoint a Special Rapporteur or Special Representative for the situation in Guatemala to prepare a preliminary report for the forty-sixth session of the General Assembly and a final report for the forty-eighth session of the Commission.

16. The International community, through the United Nations and, in particular, through its Commission on Human Rights, must support the efforts being made by the people of Guatemala to exercise their legitimate rights, must keep the situation under closer scrutiny and must forcefully condemn the continuation of systematic violations of human rights.